

The Hon. Ricardo S. Martinez



12-CR-00070-NTC

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANDREW S. CHIU,

Defendant.

NO. CR12-070RSM

AGREED PRELIMINARY
ORDER OF FORFEITURE

Pursuant to Rule 32.2 Federal Rules of Criminal Procedure and based upon the guilty plea of Andrew S. Chiu to Wire Fraud, as charged in Count 1 of the Information, in violation of Title 18, United States Code, Section 1343; upon the plea agreement filed in this matter between Andrew S. Chiu and the United States, in which the defendant agreed to the forfeiture of all property, real or personal, constituting, or derived from, any proceeds traceable to the Defendant's offense as charged in Count 1 of the Information; and, the stipulation of the parties contained herein; it is hereby:

ORDERED, ADJUDGED and DECREED that pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), Andrew S. Chiu's interest in the following properties is hereby forfeited to the United States of America:

1. A money judgment in the amount of \$652,870, that represents proceeds obtained as a result of the offense charged in Count 1 of the Information; and
2. \$326,435, in U.S. currency from the following accounts, seized on January 13, 2012, pursuant to Seizure Warrant MS11-203:

- i. \$306,277.76, more or less, in U.S. funds, seized from Vanguard Brokerage Services Account Number XXXX5899, held in the name of ANDREW S. CHIU; and
- ii. \$20,157.24, more or less, in U.S. funds, of the money seized from Vanguard Individual Account Number XXXXXXXX3721, held in the name of ANDREW S. CHIU;

WHEREAS, Rule 32.2(c)(1) provides that "no ancillary proceeding is required to the extent that the forfeiture consists of a money judgment," this Preliminary Order of Forfeiture shall be the final order of forfeiture with respect to property #1.

IT IS FURTHER ORDERED that the United States may, at any time, move pursuant to Rule 32.2(e) to amend this Order of Forfeiture to substitute property having a value not to exceed six hundred fifty two thousand, eight hundred seventy dollars (\$652,870.00) to satisfy the money judgment in whole or in part.

IT IS FURTHER ORDERED that the United States Marshals Service shall seize property #2, and maintain such seized property in its custody and control until further order of this Court, or until this Order becomes final pursuant to Federal Rule of Criminal Procedure 32.2(c)(2).

IT IS FURTHER ORDERED that pursuant to Title 21, United States Code, Section 853(n), the United States shall publish notice of the Preliminary Order of Forfeiture and of the intent of the United States to dispose of property #2 in accordance with law. The notice shall be posted on an official government website and run for at least thirty (30) days. The notice shall state that any person, other than the defendant, having or claiming a legal interest in any of the above-described properties must file a petition with the Court within sixty (60) days of the first day of publication of notice on an official internet government forfeiture website, currently www.forfeiture.gov, or within thirty-five (35) days of receipt of actual notice, whichever is earlier.

The notice shall advise such interested persons that: 1) the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the above-described properties; 2) the petition shall be signed by the petitioner under penalty of perjury; and 3) the petition shall set forth the nature and extent of the petitioner's right,

1 title or interest in the forfeited properties. The petition shall also set forth any additional
2 facts supporting the petitioner's claim and the relief sought.

3 The United States shall also, to the extent possible, provide direct written notice as
4 a substitute for published notice to any person known to have an alleged interest in the
5 above-described property #2 that is the subject of this Preliminary Order of Forfeiture.
6 Upon adjudication of any third-party claims, this Court will enter a Final Order of
7 Forfeiture pursuant to Title 21, United States Code, Section 853(n), in which all such
8 claims will be addressed.

9 IT IS FURTHER ORDERED that pursuant to Rule 32.2(b)(4), Federal Rules of
10 Criminal Procedure, this Preliminary Order of Forfeiture shall become final as to the
11 defendant at the time of sentencing and shall be made part of the sentence and included in
12 the judgment. Based upon the Plea Agreement, the guilty plea entered by the defendant,
13 and the stipulation contained herein, the Court finds that the defendant had an interest in
14 the forfeited properties. If no third party files a timely claim, this Order shall become the
15 Final Order of Forfeiture as provided by Rule 32.2(c)(2), Federal Rules of Criminal
16 Procedure.

17 IT IS FURTHER ORDERED that after the disposition of any motion filed under
18 Rule 32.2(c)(1)(A), Federal Rules of Criminal Procedure and before a hearing on any
19 third party petition, discovery may be conducted in accordance with the Federal Rules of
20 Civil Procedure upon a showing that such discovery is necessary or desirable to resolve
21 factual issues.

22 IT IS FURTHER ORDERED that the United States shall have clear title to the
23 above-described properties following the Court's disposition of all third party interests,
24 or, if none, following the expiration of the period provided in Title 21, United States
25 Code, Section 853(n) for the filing of third party petitions.

26 IT IS FURTHER ORDERED that the Court shall retain jurisdiction to enforce this
27 Order, and to amend it as necessary, pursuant to Rule 32.2(e), Federal Rules of Criminal
28 Procedure.

1 DATED this 10th day of August, 2012.

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4 RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE

5 Presented by and stipulated to by:

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7 
8 KATHERYN K. FRIERSON
Assistant United States Attorney

9
10 /s/ Francis Franze-Nakamura
11 FRANCIS FRANZE-NAKAMURA
Assistant United States Attorney

12 
13 RON CORDOVA
Attorney for Defendant

14
15 
16 ANDREW S. CHIU
Defendant